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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Ninth session

SUMMARY RECORD OF THE 24th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 November 1993, at 10 a.m.

Chairperson: Mr. ALSTON

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New Zealand

* No summary record was prepared for the 23rd meeting.

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GE.93-19487 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS (agenda item 4)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Initial report of New Zealand concerning articles 1 to 15 (E/1990/5/Add.5, Add.11 and Add.12; HRI/CORE/1/Add.33; E/C.12/WG/1992/CRP.6/Rev.1

1. At the invitation of the Chairperson, Mr. Beeby, Mr. Hunt and Ms. Fernley (New Zealand) took places at the Committee table.

2. Mr. BEEBY (New Zealand) said that he was pleased to have the opportunity of presenting New Zealand's initial report (E/1990/5/Add.5) concerning articles 1 to 15 of the Covenant. He looked forward to establishing a productive dialogue with the members of the Committee. Successive New Zealand Governments had taken seriously their obligations under the human rights treaties to which the country was a party, including the lengthy scrutiny of legislation existing prior to New Zealand's ratification. Any comments the Committee might make would be given careful consideration in Wellington.

3. New Zealand was a developed country with a relatively high standard of living, based largely on the export of primary produce. It had a good infrastructure, low population density and a comparatively unspoilt environment. Its citizens and residents had enjoyed a wide range of economic, social and cultural rights for many years. Nevertheless, New Zealand had been through a lengthy period of relative, and at times absolute, decline in terms of employment, productivity and income. Whereas, in 1955, New Zealanders' income had ranked eighth relatively to other countries, by 1987 it had slid to 23rd. In 1973, unemployment had been virtually non-existent; currently, just over 9 per cent of the labour force was recorded as being out of work. Until recently New Zealand's economic performance had been one of the worst in the developed world: growth in productivity and incomes had been very low, and the level of indebtedness had grown steadily. The last factor remained a major constraint on economic performance.

4. There were other factors, too: New Zealand's population was ageing; many children were being brought up in one-parent families, most of them headed by women; despite the dependence on agricultural exports, the population was highly urbanized; it was also becoming more diverse ethnically, people of non-European descent forming a growing proportion of society.

5. The domestic framework within which New Zealand implemented its human rights obligations included the Bill of Rights Act, passed in 1990, and the Human Rights Act 1993, which amalgamated the Race Relations Act 1971 and the Human Rights Commission Act 1977 and added six new grounds on which discrimination was unlawful; in addition, greater prominence was being given, in recent years, to the Treaty of Waitangi, currently accepted not only as the founding document of the nation but as the most important instrument in the continuing evolution of relations between Maori and non-Maori. The basic

information appeared in document HRI/CORE/1/Add.33, but he was prepared, if necessary, to respond to any further comments on the first four issues raised by the pre-sessional Working Group.

6. The report in document E/1990/5/Add.5 contained a wealth of detail, and its preparation had been a major task, particularly at a time of major economic and social change unprecedented in New Zealand's history. New Zealand had for many years been a pioneer in providing for the less fortunate members of society. Old-age pensions and free education had been introduced in the previous century, and housing assistance in 1905. The report depicted a country which had introduced, and amended according to changing circumstances, a comprehensive range of provisions in social security, health, education, housing and the other areas covered by the Covenant. In regard to social security, an act of 1938 had put in place a system of income support for everyone in need. Successive Governments had introduced developments and modifications, such as the introduction of universal family benefit in 1946, the Accident Compensation Scheme initiated in 1972, the domestic purposes benefit, disability allowances and national superannuation, recently renamed New Zealand superannuation. A particular feature revealed by the report was that almost all those provisions were funded from general taxes rather than individual contributions or special payroll taxes.

7. Education was recognized as central to individual and national development; primary and secondary education had been free and compulsory for many years. The New Zealand health system combined the public, private and voluntary sectors and was based on the principle that essential health services should be available for all. The State had been involved in the housing sector since 1905, when the Workers' Dwelling Act had provided for the construction of State houses for landless persons below a given income level. The Minimum Wage Act 1945, re-enacted in 1983, had established a floor below which wages for adult workers could not fall; under the Act, the Minister of Labour was required to review minimum rates each year.

8. The report gave details of significant measures introduced following New Zealand's ratification of the Covenant. They included extensive changes being made to the education and training system in order to provide the requisite level of competitive skills; the Residential Tenancies Act 1986, which consolidated existing tenancy law and established a comprehensive, effective system for dealing with disputes between landlords and tenants; and the passing of the Children, Young Persons and their Families Act in 1989, which had reformed the law relating to children and young persons in need of care or protection or who offended against the law, with an emphasis on supporting the family or the wider family group.

9. In recent years greater priority had been given to ensuring equity for Maori. As noted in paragraph 31 of the report, the Government had adopted, in 1989, five principles to help in making decisions about matters related to the Treaty of Waitangi. In 1990 the Government had agreed, with the majority of Maori tribes, on a comprehensive settlement of claims, under the Treaty, to commercial fishery resources, involving a transfer to Maori of assets worth approximately half a billion New Zealand dollars. Further details would

appear in New Zealand's tenth and eleventh consolidated periodic reports, due at the end of 1993, to the Committee on the Elimination of Racial Discrimination.

10. Paragraph 25 of the report drew attention to the economic and social reforms being undertaken since 1984, aimed at arresting the steady decline and dealing with the imbalances stemming from past policies of insulation and changes in world trade, such as agricultural protectionism. The economy had been extensively deregulated; agricultural subsidies had been abolished, import and foreign exchange controls relaxed, tariff barriers reduced and State assets sold or corporatized. The public sector had been made more efficient and more accountable. Despite the inevitable hardships, the ultimate aim, as noted in the report, was to improve living standards for all New Zealanders on the basis of sustained economic growth. Further, more recent measures had been designed to deal with factors such as deteriorating terms of trade, a projected large budget deficit growth, and low levels of investment and job creation. In 1991 the Government had replaced the 1987 Labour Relations Act with the Employment Contracts Act; the latter represented a further evolution in New Zealand's labour legislation, in emphasizing the freedom of employers and employees to negotiate employment conditions direct. Inevitably, it had been controversial. Union membership was henceforth voluntary, and the structure and content of bargaining was a matter for the parties concerned, subject to compliance with minimum statutory conditions of employment. The Government considered that enabling firms and their workers to agree on work practices and remuneration would promote employment growth in the longer term. Nothing in the Act denied the right of employees to form trade unions, or of the latter to federate; and the right to strike was expressly recognized in the legislation, which set out the circumstances in which the strikes were lawful and exempted unions from collective contract restrictions and tort liability, thus continuing to advance the role of unions.

11. The Government had also extensively reformed the social security system, which by 1991 had been consuming over 13 per cent of GDP, compared to 6 per cent in 1970. Many of the problems faced were reflected in paragraphs 259-268 of the report. Accordingly, benefit levels had been realigned in 1991, in favour of beneficiaries, such as invalids, with little prospect of self-support. Universal family benefit had been abolished, some 40 per cent of the resultant savings being directed to assistance for low-income families; and eligibility criteria had been tightened, particularly with regard to unemployment benefit. The cuts had been accompanied by greater funding of supplementary programmes. State retirement income had likewise been reviewed, since an ageing population and the country's fiscal and debt burdens had made the existing system unsustainable. The new rates protected those wholly reliant on superannuation, the rates for those in other categories being reduced at the rate of a 25 per cent surcharge on other income over specified levels. The age of eligibility was currently phased up to 65 years. Three of the main political parties had explicitly agreed on the main parameters of superannuation arrangements.

12. The Accident Compensation Scheme, referred to in paragraph 262 of the report, had been overhauled by the Accident Rehabilitation and Compensation Insurance Act 1992. The scheme's costs had escalated by 25 per cent per annum

between 1985 and 1990. To redress the heavy outlay by employers, who were funding some 70 per cent of the scheme although work accidents accounted for only about 40 per cent of total costs, earners were now required to pay a premium to meet the cost of accidental injury outside the workplace, and the motor vehicle owners' premium had been supplemented by a premium on petrol. Other aspects of the scheme had been tightened up in order to deal with the anomalies revealed.

13. Prior to the reforms introduced in the Housing Restructuring Act 1992, some 70,000 low-income families had been able to rent State houses at subsidized rates, while beneficiaries unable to obtain a State house received an Accommodation Benefit, generally of much lower value. From 1 July 1993, all low-income families had been eligible for the Accommodation Supplement, whether for renting State-owned or private housing or to help with mortgage costs; some 185,000 households were currently receiving that assistance. State house tenants were being moved progressively to market rental rates, upon payment of which they could apply for the Accommodation Supplement; 10 per cent of State house tenants were currently paying market rates. To ease the transition, the Government had phased the adjusted levels of assistance over a number of years, granting tenure protection to the elderly and those with exceptional difficulties in moving.

14. As noted in the report, debate was continuing about the best way to fund and organize public health services. The Health and Disabilities Act 1993 had set in train a major restructuring of the system, aimed at improving access to health care for all New Zealanders, and encouraging efficiency and flexibility. The main feature was a split between the purchasers of personal health care, the four regional health authorities, and the providers. At the same time, the targeting of health subsidies had been amended with a view to improving access to affordable health care for lower-income families regardless of their work status. A Community Services Card, introduced in 1992, allowed cardholders, who included all income-tested beneficiaries as well as low-income families and individuals, to receive higher subsidies than non-cardholders on a range of health services. There were also limits on the costs imposed on any family or individual in a year, and special arrangements for high users of health services.

15. The need had been recognized to realign the education system, which in the past had reflected the economy's comparatively high demand for low-skill employees, thus providing few incentives to seek higher education and training - a situation compounded by almost full employment and compressed margins for skills which had discouraged the development of widespread vocational education. At primary and secondary levels, a new curriculum was being introduced, setting out, for all students, a clear progression of achievement objectives against which teachers would assess and report on each student's achievements and adjust programmes to ensure individual progress opportunities. The new curriculum would link into a new qualifications framework, with recognized achievement standards, success in which would be credited to National Certificate qualifications with a view to tertiary qualification. The school-leaving age had been raised to 16, and a further rise was being considered.

16. The report described a number of measures aimed at increasing participation in tertiary education and training. Since its preparation, the passing of the Industry Training Act 1992, had introduced a new industrial, skills training strategy; it included a reform of the apprenticeship system, and was intended to extend the range and quality of industry-based training through a partnership between Government and industry.

17. At the tertiary level, the Government had introduced the "Study Right", to encourage school-leavers and those under 22 years of age to continue tertiary education and training. A subsidized loan scheme had been introduced in 1992; in the 1992 calendar year, over 45,000 student loans had been taken up, and over 65,000 in 1993, the borrowings having totalled $NZ 163.6 million and $NZ 252.7 million respectively. Allowances for students under 25 years of age were henceforth related to parents' incomes, so as to provide greater assistance to students from low-income families.

18. The emphasis on tertiary education had led to an increased proportion of 18-year-olds entering or continuing post-compulsory education. In 1985, 30 per cent of 18-year-olds had participated in post-compulsory education, of whom 24 per cent had been in tertiary education; in 1991, the corresponding percentages had been 43 and 29 per cent, and the improvement was expected to continue, reflecting recognition of the link between tertiary education and employment prospects as well as the Government's commitment to increasing the number of funded places in tertiary institutions. The improvement had been particularly noticeable among Maori students, who had traditionally been under-represented in tertiary education.

19. The organization of research, science and technology in the State sector - a topic obviously relevant to article 15 of the Covenant - was being reformed in order to enhance the value of research for public benefit and to improve links between applied research and development and industries. The Government had established a Ministry of Research, Science and Technology, a Foundation for Research, Science and Technology, and 10 Crown-owned research institutions, which replaced former departmental science agencies. The essential aim was to focus research efforts in the most effective way possible, recognizing the links between economic growth and research and development.

20. The measures he had described represented a comprehensive programme aimed at reversing the lengthy period of economic decline and the growth in dependence on welfare. The Government had viewed the situation in which the welfare system was being funded increasingly by borrowings as unsustainable, since it meant mortgaging the economic and social rights of future generations. The reform process had inevitably been difficult, involving trade-offs, notably between the short-term costs of unemployment and income loss and the improved prospects of faster, sustained growth in the medium term. Given New Zealand's levels of debt and economic performance, the Government lacked the resources to protect people fully from the costs of adjustment. Underpinning the Government's approach was the view that sustained growth in incomes and employment offered the best way of raising and sustaining the quality of life and achieving the progressive realization of economic, social and cultural rights. The Government's aim, as it had made clear in introducing its programme of reforms in December 1990, had been to

create a more prosperous society which would bring about improvements in well-being for all. Despite strong differences of opinion about the means, the Government remained committed to the principle of adequate access to assistance for those in need, through an affordable welfare system; as the Prime Minister had said in February 1991, the welfare structure must be refocused to ensure that genuine needs were met.

21. Redressing a decline which had taken place over 30 years had inevitably been slow, but there were clear indications that the country was on the road to sustained and sustainable economic growth which would enable New Zealand not only to protect the vulnerable members of society but give them a stake in increasing prosperity. The encouraging signs included a fall in inflation levels from over 13 per cent in 1985 to 7 per cent in 1990 and below 2 per cent for the past two years; a considerable drop in interest rates; a growth in GDP of 2.9 per cent in the year to June 1993, notwithstanding adverse winter conditions, compared to an average of only 1.1 per cent for the previous 10 years; and a growth in employment, as measured by the Household Labour Force survey, 41,000 more jobs having been recorded in the year to September 1993 and the seasonally-adjusted unemployment rate having fallen from 10.1 per cent in June 1992 to 9.8 per cent in June 1993 and 9.1 per cent in September 1993 - although the issue of unemployment, especially in the long term, remained a prime concern of all political parties.

22. Introducing the initial report of Niue (E/1990/5/Add.12) on behalf of, and at the request of, the Government of Niue, he said that Niue was self-governing in free association with New Zealand, and had sole and unfettered legislative and executive competence regarding all rights set out in the Covenant. The Government of Niue had indicated that it had no additional information to add to that contained in the report.

23. Lastly, he referred to the initial report on Tokelau (E/1990/5/Add.11). Tokelau was New Zealand's last remaining non-self-governing territory, and important constitutional changes, agreed upon in December 1992, were currently being implemented. In particular, an atoll-based framework of government was being put in place, based on a formal delegation of the Administrator's powers to Tokelau's political institutions, the General Fono and the Council of Faipule. The latter was a new institution which would perform ministerial-type functions, to be made possible by a relocation of public services, involving the transfer of key functions and personnel from the Office of Tokelau Affairs in Western Samoa to the atolls. Tokelau was thus assuming, at its own pace, greater control of its own affairs, including the manner in which the rights accorded to Tokelauans under the Covenant would be protected.

24. Successive New Zealand Governments had been committed to progressive achievement of the goals set out in the Covenant, and the measures adopted over the past 10 years were intended to create a growing economy that could provide opportunity and security for all New Zealanders. He looked forward to discussing his report in greater detail during consideration of the list of issues drawn up by the Pre-Sessional Working Group.

25. The CHAIRPERSON invited the representative of New Zealand to answer the questions contained in the list of issues to be taken up in connection with the consideration of the report (E/C.12/WG/1992/CRP.6/Rev.1).

26. Mr. BEEBY (New Zealand) said that the first four very general issues were already dealt with in the core document. However, with reference to issue No. 1, some supplementary material of a statistical nature on the demographic breakdown of the population would be circulated. Furthermore, on 6 November 1993 a vote had been taken on whether New Zealand should continue with the "first-past-the-post" electoral system or whether it should be replaced by a form of proportional representation. A clear majority had emerged in favour of the latter system.

27. With regard to issue No. 5, he explained that the Justice and Law Reform Select Committee, in its final report on the White Paper, on a Bill of Rights for New Zealand had noted that a number of submissions had been made recommending the inclusion of fundamental social and economic rights in the legislation and had suggested that some of those rights could be incorporated in a bill of rights that was not supreme law. However, the then Government had decided against their inclusion. The then Prime Minister had stated that bills of rights were traditionally concerned with putting restraints on the powers of the State. Social and economic rights were in a different category requiring positive action by the State. That did not mean that they were of lesser importance. It meant that they needed to be protected in a different way.

28. The New Zealand Human Rights Commission had an important monitoring role in respect of article 7 of the Covenant. According to the long title of the Human Rights Act 1993, the purpose of the Act was, inter alia, to secure better protection of human rights in New Zealand in general accordance with United Nations Covenants or Conventions on Human Rights. Section 5.1 (a) of the Act provided that the function of the Commission was to promote respect for and observance of human rights, while section 5.1 (c) provided that the Commission should make public statements in relation to any matter affecting human rights, including statements promoting an understanding of and compliance with the Human Rights Act. Under section 5.1 (h) the Commission was required to report to the Prime Minister on the implications of any proposed legislation or policy which the Commission considered might affect human rights.

29. Issue No. 6 had been dealt with in his opening statement.

30. Commenting on issue No. 7, he explained that New Zealand legislation had been reviewed at length prior to the decision to become a party to the Covenant, for the purpose of ensuring that it was in conformity with the provisions thereof. Two reservations had been entered in areas where it had been felt that full implementation of the articles concerned could not be achieved. As noted in paragraph 9 of the report (E/1990/5/Add.5), the provisions of the Covenant had not been directly incorporated into one single statute, but effect was given to them through a whole series of individual statutes, programmes and policies in accordance with the country's long-standing legal tradition.

31. With regard to the quotation from the New Zealand Human Rights Commission's annual report for 1991 contained in issue No. 8, he said that the Government accepted that there had been economic and social hardships in New Zealand over the past few years. Faced with the consequences of a

sustained period of economic decline, the Government had taken fundamental measures to achieve sustainable growth and a return to an improved standard of living for all New Zealanders. Social welfare expenditure, which had been consuming one third of total government expenditure, had had to be cut to avoid further economic decline and to preserve the Government's ability to assist the most vulnerable members of society in the future. While benefit levels had been reduced, there had been greater funding of targeted programmes such as special benefits for those most in need of help, a reduction in the cost of primary health care for those on low incomes, and a removal of the discrepancies in the amount of housing assistance given to people in similar circumstances. Those measures had engendered some controversy, and the debate on them was continuing.

32. In reply to the question asked in issue No. 9, he explained that the Human Rights Commission had a role to play in relation to the rights covered by the Covenant. It could make public statements on any matter affecting human rights and was required to report to the Prime Minister on the implications of any proposed legislation or policy which it considered could affect human rights. Like other departments and government-funded bodies, it had been subject to resource constraints in recent years. Following the adoption of the Human Rights Act 1993, which assigned significant new responsibilities to the Commission, its budget had been substantially increased. That should enable it to allocate more resources to important areas such as research, education and publicity. Moreover, a specific complaints division had been set up.

33. He stressed that despite the statement by the Associate Minister for Health to the effect that health, education and welfare services were privileges, not rights, reproduced in issue No. 10, the Committee could rest assured that the New Zealand Government remained committed to the welfare State and that there would continue to be guaranteed access to health, education and other social services with assistance for those who could not afford to meet part or all of the costs.

34. Issue No. 11 referred to two articles in the New Zealand Law Journal concluding that New Zealand's anti-discrimination laws were inadequate to give effective protection to its citizens from discrimination and to comply with its international human rights obligations. The Human Rights Act 1993 would, when it entered into force, constitute a substantially more comprehensive anti-discrimination code. It would add to the grounds on which discrimination was unlawful, which would include sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origin, disability, age, political opinion, employment status, family status and sexual orientation. The definition of disability was very broad and left no doubt that discrimination on the ground of infection with HIV or AIDS was covered by it.

35. Issue No. 12 would be taken up in connection with other issues to be commented on later.

36. With regard to issue No. 13, it should be borne in mind that migration from cities to rural areas was not a trend of major significance. New Zealand's population was highly urbanized, with only an estimated 15 per cent living in rural areas. The factors that had led to migration from urban

to rural areas in the past few years included participation by the work force in development projects outside urban areas, some migration of retired people to smaller communities, and the return of some urban Maoris to their ancestral areas.

37. Commenting on issue No. 14, he explained that the New Zealand Human Rights Commission's overall mandate and functions were based on the United Nations Covenants. The Commission had produced a booklet containing the texts of international human rights instruments and a poster with the text of the Universal Declaration of Human Rights in Maori and English. It also made reference to the Covenant in submissions on proposed legislation or policy. The Commission was planning to extend its education, publicity and research programmes over the next three years. Responsibility for preparing reports under the Covenant lay with the Ministry of Foreign Affairs and Trade, which received information from a wide range of sources. New Zealand's initial report now under consideration had been drawn up after substantial consultation with a large number of relevant government departments and agencies, many of which had extensive contacts with non-governmental organizations. The Ministry of Foreign Affairs and Trade normally published an information document following the presentation by New Zealand of a report under the treaty monitoring system, and he was confident that the same procedure would be followed in the present instance.

38. Mr. SIMMA pointed out that, since New Zealand's report had been submitted in October 1990, some parts of it were obsolete. It was almost impossible to cover adequately everything that had happened since 1990 in an introductory statement.

39. It had been indicated that New Zealand's ratification of the Covenant extended to the Cook Islands and he wondered why that territory had not been covered as a separate entity. Did that mean that the territory was subject to the legislation in force in New Zealand itself?

40. He would also appreciate some information on the composition of the Human Rights Commission and on any changes in it since 1990.

41. New Zealand had achieved a minor economic miracle and its policies had been praised by OECD. However, it seemed to him that there was a contradiction between the new economic policy and the premises on which the Convention was based, as, for example, in the Associate Minister for Health's statement that health, education and welfare services were privileges, not rights. Some further information on that point would be welcome, as well as on any legal problems that might arise from the placing of economic, social and cultural rights on a different plane from civil and political rights.

42. In connection with the reply given in respect of issue No. 7, he would also like to know whether any practical problems would arise if New Zealand had to ratify the Covenant at the present time.

43. Mr. ALVAREZ VITA, after thanking the representative of New Zealand for his Government's detailed report, said that he, too, would like to know what the situation would be if New Zealand were due to ratify the Covenant today. He asked whether the Government of New Zealand was considering the possibility

of withdrawing its two reservations to the Covenant; whether health workers, garbage collectors and grave-diggers enjoyed the right to strike, and if so, how the State coped with such emergencies; what was meant by heterosexual de facto marriages in paragraph 220 of the report; whether aliens residing in New Zealand had the same social security rights as New Zealanders; what was meant by "normally resident in New Zealand" in paragraph 228; whether abortion was legal in New Zealand and, if so, whether a doctor was obliged to perform it or could refuse to do so on grounds of conscience; what was the situation with regard to euthanasia; whether university entrance was open to aliens; what was the religious composition of New Zealand's population; what criteria were applied for prohibiting the entry of obscene works into the country; and whether resident aliens could benefit from the New Zealand's Authors' Fund.

44. Mr. KOUZNETSOV endorsed his colleagues' high opinion of the report presented by New Zealand. However, there were a number of issues of interest to him which were not covered by the report itself. In particular, as a jurist, he was interested in the Human Rights Act 1993 which was shortly to enter into force. He would appreciate it if the delegation could provide information on the contents of the Act, and ideally, a copy of the text itself.

45. Mr. BADAWI shared the concern expressed by Mr. Simma regarding the implications for economic, social and cultural rights of the economic measures adopted by the Government of New Zealand. While the need for economic restructuring was recognized by all, it inevitably affected the rights contained in the Covenant, and the Committee would appreciate information on the extent to which the economic restructuring under way in New Zealand had affected economic, social and cultural rights, together with information on any measures the Government had adopted to soften the impact of economic restructuring.

46. The report mentioned the phenomenon of one-parent families. He inquired whether that development was attributable to social or economic factors.

47. Mr. TEXIER commended the somewhat lengthy but extremely detailed report submitted by New Zealand, which struck a balance between the presentation of legislative measures and a description of social reality, and which had not moreover, balked at addressing problems.

48. He asked the delegation to explain why economic, social and cultural rights had been excluded from the purview of the Human Rights Commission, which apparently only dealt with civil and political rights. His second question concerned the economic reform process, and more particularly the worldwide phenomenon of privatization. The tables contained in the report showed that unemployment was on the rise, although the report confidently stated that in the long term the prospects for employment were good; he wondered whether in fact the privatization process was not likely to entail an increase in long-term unemployment. Paragraph 13 of the report referred to the Equal Opportunities Tribunal; he would like to know about the composition of the Tribunal and whether it was empowered to hand down legally binding decisions.

49. Mr. GRISSA also commended the extremely detailed report submitted by New Zealand, although he regretted that much of the information was apparently now out of date. In his introduction, the representative of New Zealand had referred to the Employment Contracts Act 1991, which recognized the rights of employers as well as of employees. He asked whether that legislation in any way affected the right to form trade unions and to strike. Turning to the matter of non-discrimination, he noted that the Government of New Zealand prided itself on the absence of racial discrimination in New Zealand. However, its satisfaction should be set against the apparent discrimination exercised in respect of immigration. Shutting out people who might be the victims of discrimination, were they to live in New Zealand, was in itself a form of discrimination. The population of New Zealand was overwhelmingly of European, especially British stock, and visas were apparently issued on a selective basis. In recent times, New Zealand had seemingly opened itself up to Asian immigration, although it remained relatively closed to immigration from Africa or Latin America.

50. He noted that the number of single mothers was growing in New Zealand, and asked what impact that trend had on the economic and civic status of single mothers, and what protection was afforded to their children. He also inquired how society at large viewed the phenomenon.

51. Mr. WIMER ZAMBRANO extended his thanks to the representative of New Zealand for his country's excellent report and for the clear introduction he had given. He suggested that, in accordance with the Committee's practice, the representative of New Zealand should be given an opportunity to answer the Committee's questions immediately if he so wished.

52. The CHAIRPERSON confirmed that the Committee always offered delegations the possibility to answer questions immediately. The delegation of New Zealand would naturally be invited to do so if it wished.

53. Mr. MUTERAHEJURU thanked the delegation for New Zealand's extremely extensive report and for the oral introduction to it. In view of the isolation of the outlying smaller islands, in particular Tokelau and Niue, he wondered to what to extent the Covenant was actually applied in those territories. What was the nature of their administrative organization and how far was it able to ensure the effectiveness of the Covenant. In particular, he asked whether the Human Rights Commission had any local representatives there. Information had been provided on the composition of the population in New Zealand's two main islands, although no details had been provided concerning the demographic make-up of the other islands. Moreover, the decline in the population of Niue, from 5,000 in 1971 to 2,434 in 1990 suggested a danger of the island eventually becoming uninhabited.

54. Mrs. JIMÉNEZ BUTRAGUEÑO thanked the delegation of New Zealand for what she described as a model report. Regarding the more recent developments mentioned in the core document submitted by New Zealand (HRI/CORE/1/Add.33), she was particularly struck by the inclusion, in the Human Rights Act 1993, of age as a ground on which discrimination was unlawful. That was a novel feature, and it would be interesting to know why the Government had decided to extend the Act's protection to the aged. Was there a large elderly population in New Zealand or had pressure been exerted by groups representing the aged.

In the same connection, she asked what percentage of New Zealand's population was aged over 65 and whether it was politically active, or whether, on the contrary, it was marginalized.

55. Mr. CEAUSU said that the inevitable lacunae in the Committee's knowledge of New Zealand accounted for the large number of questions put on what was indeed a very comprehensive report. The report testified to the Government's awareness of the problems facing New Zealand's society and to its desire to respond to society's needs. While legislation was an important means of implementing the Covenant, when it came to a verifying compliance, what counted was not so much the number of laws, but the policies followed, the means employed and the results achieved. In the light of the information provided in the report, New Zealand had achieved remarkable results in its efforts to enforce the economic, social and cultural rights enshrined in the Covenant.

56. MR. BEEBY (New Zealand), taking up the point raised by Mr. Simma concerning the timing of the report, said that while much had changed since 1991, the process of economic restructuring had actually begun in 1984, under the previous Government, and there was a large degree of continuity in the process.

57. As to the reason why the report did not cover the Cook Islands, he said that like Niue and Tokelau, they were self-governing. The Cook Island authorities had unfortunately not been able to prepare a report for submission to the Committee on account of their heavy administrative burden.

58. Regarding the question in issue No. 7, he said that as a result of its accession to both International Covenants on Human Rights, New Zealand now possessed an outside benchmark against which it could assess its performance.

59. As for the composition of the Human Rights Commission, under legislation which was to come into force in 1994, the Commission would consist of a chief commissioner, a race relations commissioner, a privacy commissioner, a commissioner on proceedings and not more than three other commissioners.

60. In response to the question concerning a possible contradiction between the economic and social policies pursued by the Government and its obligations under the Covenant, he said that in the past areas such as health, education and social welfare had been at the top of the agenda and the present Government had to comply with its obligations under the Covenant within new economic circumstances, marked by rising unemployment and welfare dependency. The Government was attempting to retarget its efforts with a focus on those most in need. The same concern was raised in issue No. 10 of the list of issues which referred to a statement by the Associate Minister of Health that "health, education and welfare services are privileges, not rights". He was unaware of the context in which the Minister had made his remark, but suggested that a country's performance should not be assessed on the basis of a statement by a single minister. The Government was committed to the welfare state, and would continue to ensure the right of access to essential welfare services.

61. As to whether he felt that New Zealand would be able to ratify the International Covenant on Economic, Social and Cultural Rights at the present time and in the light of all the changes that had occurred in the last three years, he had no doubt that it would be able to do so, subject to one reservation regarding the need to bring domestic legislation on maternity leave into conformity with the Covenant. As a whole, the measures adopted in the previous three years were not incompatible with the requirements with the Covenant.

62. Replying to the question raised by Mr. Kouznetsov in connection with the Human Rights Act 1993, he referred to the summary provided in paragraph 54 of the New Zealand core document (HRI/CORE/1/Add.33) and to the information on the Human Rights Commission's membership supplied in paragraph 55. The full text of the new legislation was rather lengthy, but he would, with the help of the Secretariat, arrange for copies to be made available to members. The new Act was, of course, the cornerstone of New Zealand's compliance with both International Covenants.

63. In reply to the two questions raised by Mr. Badawi, he said that, in his view, the phenomenon of single-parent families was due to social factors rather than economic ones. As for the question whether the measures taken by the Government over the past few years had had a greater impact on some rights under the Covenant than on others, the main emphasis had undoubtedly been on areas relating to health, education and social welfare, with cultural rights receiving somewhat less attention.

64. Mr. Texier had asked whether the new Act did not restrict the role of the Human Rights Commission to civil and political rights. That was perhaps true of the Bill of Rights Act 1990 but emphatically not of the Human Rights Act 1993, which covered the full range of rights set forth in both International Covenants. The impression that unemployment in New Zealand was on the increase was incorrect; the reverse was now true, unemployment having fallen in recent months to just over 9 per cent. The forecast was that it would continue to fall, albeit slowly. As for the Equal Opportunities Tribunal, renamed Complaints Review Tribunal under the new legislation, it was a body with comprehensive jurisdiction to consider complaints after conciliation procedures had been tried without success.

65. In reply to Mr. Grissa's question concerning the population's attitude to single mothers, he said that it was his impression that New Zealanders were becoming increasingly tolerant of arrangements which departed from established tradition. Replying to Mrs. Jiménez Butragueño's question concerning age, he referred to paragraph 13 of the core document (HRI/CORE/1/Add.33), adding that the last census carried out in New Zealand had shown that the middle-aged and elderly now formed the largest sectors of New Zealand society, the 35 to 59 age group accounting for 29.3 per cent of the population, an increase of 30.8 per cent over the 1981 census result, while the over-60s accounted for 15.7 per cent, an increase of 11.8 per cent. As for the question why age had been included as a ground on which discrimination was unlawful under the Human Rights Act 1993, he would appreciate being allowed a little more time for reflection.

66. Replying to the question raised by Mr. Muterahejuru, he said that the people of Niue, like those of the Cook Islands, had opted for self-government in full association with New Zealand, which meant that, although New Zealand's obligations under the Covenant continued to extend to those territories, it was their own Governments that were responsible for the observance of rights under the Covenant. Tokelau, on the other hand, continued by its own wish to be a non-self-governing territory in respect of which New Zealand continued to report to the Committee of 24 and to receive United Nations missions from time to time. The next mission was due in 1994. Changes were being introduced in Tokelau but at the population's own pace, which, inevitably, was rather slow. The population of both Niue and Tokelau was almost 100 per cent Polynesian.

67. Reverting to the list of issues contained in document E/C.12/WG/1992/CRP/6/Rev.1, and referring to its section II on issues relating to specific rights recognized in the Covenant, he said with regard to issue No. 15 that under the Private Schools Conditional Integration Act 1975, private schools could integrate with the State system while still retaining their special religious or philosophical character. Provided they met certain conditions for integration, those schools could have recurrent expenditure paid for by the State, while retaining ownership of their assets and responsibility for capital works. They were obliged to teach certain core subjects but could also provide additional instruction related to their special character which was not part of the usual State school curriculum. Under section 65 of the Act, in order to preserve the special character of the school, appointments to positions could be made bearing in mind that the best teachers for the school were those who shared or followed the same religious or philosophical beliefs.

68. On issue No. 16, he said that no data were available on the percentage of the labour force which held more than one full-time job. The June quarter 1993 Household Labour Force Survey estimated 62,100 people as having more than one full- or part-time job, but circumstantial evidence suggested that in the majority of cases the jobs were part-time.

69. Turning to issue No. 17, he repeated that the Government was committed to a balanced economic strategy which would produce sustainable reductions in unemployment. There was considerable concern about the slow rate of decline in unemployment, and the Government saw the area as a priority one. The New Zealand Employment Service of the Department of Labour provided services for all citizens and persons with permanent residence status or with a work permit who were unemployed and were available and looking for work. The Service also matched job seekers, including long-term unemployed, to job vacancies. The Service currently provided a number of employment assistance and training programmes targeting different groups, including persons with disabilities, women, and the socially alienated. A few pages of detailed information would be circulated to members.

70. The Ministry of Maori Development had responsibility for improving achievement by Maori in the area of training and employment, and funded a range of programmes in addition to those provided by the Employment Service. Paragraphs 56 to 61 of the Report (E/1990/5/Add.5) were also relevant to the question of Maori and Pacific Islanders' unemployment.

71. With regard to issue No. 18, he said that the Employment Contracts Act 1991 had not altered the manner in which the Government promoted the elimination of discrimination in employment in the private and public sectors. A non-coercive approach to affirmative action had been adopted in relation to the private sector. That approach was supported by the establishment of a joint private/public sector-funded Equal Employment Opportunities Trust to develop, promote and investigate equal employment opportunities, policies and practices in the private sector, as well as by the establishment of an Equal Employment Opportunities Fund for the promotion of equal employment opportunities programmes and practices in private sector workplaces.

72. In the public sector, the State Sector Act 1988 required that each Government Department should develop and implement an equal employment opportunities programme. Departments also had to report annually on progress made and further action required to meet departmental equal employment opportunities objectives. While Departments were responsible for determining the contents of their own equal employment opportunities plans, affirmative action programmes were included in the provision of scholarships, career development and training, training for managers, and provision of childcare, etc. The Government had recently taken the opportunity provided by the restructuring of the State Services Commission to increase substantially the amount of resources allocated to improving equal opportunities in the public sector.

73. Lastly, referring to issue No. 19, he said that the section of the Human Rights Commission Act 1977 relating to police and traffic safety officers in positions which had to deal with situations of violence had not been carried over into the Human Rights Act 1993. So far as the question of the exclusion of women in combat was concerned, the Government considered the position to be compatible with its obligations under the Covenant. It had, however, made a reservation in that area when ratifying the Convention on the Elimination of all Forms of Discrimination against Women, the requirements of which were more specific. Attitudes towards the employment of women in active combat were gradually changing. A working party set up in 1990 to review the policy of not committing women to combat had made a majority recommendation that women should be able to volunteer for combat roles in the armed forces on the same merit basis as men. While no decision had been taken on that recommendation, women had been allowed since 1988 to perform all combat roles in the New Zealand armed forces in peacetime. In 1992 the New Zealand army had announced that it would undertake a trial which would give some women the opportunity to train in combat roles. There had thus been some changes in attitudes as well as in the rules in force, and the matter continued to be under discussion.

74. Mr. KOUZNETSOV welcomed the fact that the text of the Human Rights Act 1993 was to be circulated to Committee members. The information contained in paragraph 54 of the core document was, in his view, insufficiently explicit.

75. Ms. HODGES-AEBERHARD (International Labour Organisation) said that the ILO welcomed the occasion to contribute to the Commission's deliberations and, in the spirit advocated by the Chairperson at the opening meeting, would ensure a presence throughout the session. Referring to the case currently

under consideration, she drew attention to document E/1994/5 dated 15 November 1993 reporting on the ratification of ILO Conventions by a number of countries, including New Zealand. The two Conventions relevant to New Zealand's replies on article 6 of the Covenant were the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Employment Policy Convention, 1964 (No. 122). The ILO Committee of Experts had made a number of observations in connection with New Zealand's implementation of those Conventions, and those observations had, in turn, been taken up by the Tripartite Conference Committee at the ILO Annual Conference in June 1993.

76. Mr. TIKHONOV (Secretary of the Committee), replying to a point raised by Mr. SIMMA, said that the updated sixteenth report of the ILO had been submitted a few days earlier, was now being translated and would be distributed as soon as possible.

The meeting rose at 1 p.m.